

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST**

AMAZON WEB SERVICES, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 19-1796C
)	(Judge Patricia E. Campbell-Smith)
THE UNITED STATES,)	
)	
Defendant,)	
)	
and)	
)	
MICROSOFT CORPORATION,)	
)	
Intervenor-Defendant.)	

**DEFENDANT’S MOTION
TO SCHEDULE A STATUS CONFERENCE**

Pursuant to Rule 7(b) of the Rules of the United States Court of Federal Claims (RCFC), defendant, the United States, respectfully requests that the Court convene a status conference to discuss the anticipated timeline for further proceedings in this bid protest. Counsel for intervenor-defendant, Microsoft Corporation (Microsoft), has indicated that Microsoft does not oppose and joins our request. Counsel for plaintiff, Amazon Web Services, Inc. (AWS) has not indicated a position on the motion, and reserves the right to respond upon review of the motion.

Currently pending before the Court are the renewed partial motions to dismiss Count Four of AWS’s four-count amended complaint (ECF No. 236), filed separately by the United States (ECF No. 237) and Microsoft (ECF No. 238) on November 6, 2020. Briefing on the United States’ motion concluded with the filing of our reply brief on December 1, 2020 (ECF No. 240). The Court permitted additional briefing on Microsoft’s motion, which concluded on January 13, 2021, with the filing of Microsoft’s response to AWS’s sur-reply (ECF No. 258).

Performance under the Joint Enterprise Defense Infrastructure (JEDI) contract at issue in this litigation continues to be stayed pursuant to the Court's preliminary injunction, issued February 13, 2020 (ECF No. 164). As the United States has consistently described throughout this litigation, the capabilities to be provided under JEDI are urgently needed in support of national security. *See, e.g.*, Def. Opposition to Pl. Mot. For TRO and Prelim. Injunction, ECF No. 139, at 53-58, attached declarations. The urgency we have described remains, and continued delay in the start of performance under JEDI entails continuing, and to some degree compounding, national security implications. Moreover, uncertainty regarding the anticipated schedule for resolution of this bid protest makes it difficult for the Department of Defense (DoD) to effectively plan to mitigate the effects of continued delay in fielding JEDI.

The Court's jurisdictional statute requires that it "give due regard to the interests of national defense and national security and the need for expeditious resolution of the action" when deciding bid protest cases. 28 U.S.C. § 1491(b)(3); *see also Linc Gov't Servs., LLC v. United States*, 96 Fed. Cl. 672, 703 (2010). Pursuant to the Court's preliminary injunction, DoD has had to find solutions to mitigate the mission impact of an inability to field JEDI capabilities, to minimize harms to national security, for more than a year. Continuing mitigation efforts would greatly benefit from a greater understanding of the Court's anticipated timeline for resolving the pending renewed partial motions to dismiss, which will in turn inform the anticipated timeline for remaining litigation.

For these reasons, we respectfully request that the Court schedule a status conference to discuss the anticipated timeline for further proceedings in this bid protest.

Respectfully submitted,

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